

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

**VICTOR MANUEL RIVERA, JR. AND
VICTOR MANUEL RIVERA, SR.**
Plaintiffs,

v.

**KARRIERS, INC., LONG SHOT
TRUCKING, LLC AND
JON EDWARD BEHLE**
Defendant.

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CIVIL ACTION NO. 5:20-cv-210

DEFENDANT'S NOTICE OF REMOVAL

Defendant, Jon Edward Behle, files this Notice of Removal under 28 U.S.C. §§ 1441, 1446, and 1332, and respectfully shows the Court the following:

**I.
Introduction**

1.1 On October 13, 2020, Plaintiffs Victor Manuel Rivera, Jr. and Victor Manuel Rivera, Sr, filed a personal injury lawsuit against Karriers, Inc., Long Shot Trucking, LLC and Jon Edward Behle in the 341st Judicial District Court of Webb County, Texas, under Cause No. 2020CVA001790D3. *Plaintiffs' Original Petition, Ex. 1.* Plaintiffs allege that Victor Manuel Rivera, Jr., suffered injuries when Defendant driver, Jon Edward Behle, was operating an 18-wheeler, and attempted to make an improper turn and struck the vehicle being operated by Plaintiff, Victor Manuel Rivera, Jr. *See id.* at § V. As a result of Victor Manuel Rivera, Jr.'s claimed injuries, Plaintiffs seek to recover damages for: past and future healthcare expenses; past and future physical pain and mental anguish; past and future physical impairment; and past and future disfigurement. *Id.*, at § VII.

1.2 Plaintiffs' state court action is one over which this Court has original jurisdiction under 28 U.S.C. § 1332 and which may be removed to this Court in accordance with 28 U.S.C. § 1441.

This is a civil action in which the matter in controversy exceeds \$200,000.00, exclusive of interest and costs, and is between citizens of different states.

1.3 Service of Citation of Plaintiffs' Original Petition on Defendant Jon Edward Behle was executed on October 26, 2020. *See State Docket Sheet, Ex. 2.* Jon Edward Behle filed his Original Answer in the state court action on November 24, 2020. *See Defendant Jon Edward Behle's Original Answer to Plaintiff's Original Petition, Ex. 3; State Court Docket Sheet, Ex. 4.*

1.4 Neither Karriers, Inc or Long Shot Trucking, LLC have been served at this time.

1.5 Counsel for the undersigned party represents to the Court that Karriers, Inc. consents to and joins in this Notice of Removal.

II. The Parties

2.1 Plaintiffs are Texas citizens, who resided in Webb County, Texas at the time of the events made the basis of this lawsuit. *Plaintiffs' Original Petition*, at ¶ 2.1, *Ex. 1.*

2.2 As Plaintiffs concede in their pleading, Defendant Jon Edward Behle resides in Alden, Minnesota.

III. Procedural Requirements for Removal

3.1 Removal is timely, as this Notice is filed within 30 days of John Edward Behle receiving service of summons and Plaintiffs' Original Petition on October 26, 2020. *See* 28 U.S.C. § 1446(b)(1).

3.2 Written notice of the filing of this Notice of Removal is being given to Plaintiffs and their counsel as required by Texas law. Further, Jon Edward Behle is filing a copy of this Notice with the Clerk of the Court for Webb County, Texas—where Plaintiff's cause was originally filed. *See John Edward Behle's Notice of Filing of Notice of Removal, Ex. 6.*

3.3 Jon Edward Behle has submitted a copy of all processes, pleadings, and orders to this Court as required by 28 U.S.C. § 1446(a).

IV. Venue

4.1 Venue in this district is proper because the Southern District of Texas, Laredo Division, includes Webb County. Webb County is the county where the alleged incident occurred and where the original lawsuit is pending. *Plaintiff's Original Petition*, at ¶ 4.3, *Ex. 1*.

V. Jurisdictional Basis for Removal

5.1 Removal is proper pursuant to 28 U.S.C. § 1332 because there is complete diversity between the parties and the amount in controversy exceeds \$75,000.00.

5.2 First, complete diversity of citizenship exists between the parties. Plaintiffs represent that they are Texas residents. *Plaintiff's Original Petition*, at ¶ 2.1, *Ex. 1*. Jon Edward Behle is one of three named Defendants in this lawsuit. *See id.* at ¶ 2.2. Plaintiffs concede in their Petition that Jon Edward Behle is a resident of Alden, Minnesota. *See id.* Therefore, Jon Edward Behle is deemed a citizen of Minnesota for diversity purposes. *See* 28 U.S.C. § 1332(c). For these reasons, the parties are completely diverse, and removal is appropriate on this ground.

5.3 Second, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In determining whether the amount in controversy has been met, the general rule is that the sum claimed by the plaintiff controls if the claim is apparently made in good faith. *Okeke v. Auto. Fin. Corp.*, 2016 U.S. Dist. LEXIS 196918, *16, 2016 WL 11582509 (W.D. Dist. Tex. Feb. 3, 2016) (citing *St. Paul Mercury Indemn. Co. v. Red Cab Co.*, 303 U.S. 283, 288-89, 58 S. Ct. 586, 82 L. Ed. 845 (1938)). Here, Plaintiffs represent to the state Court that they seek monetary damages of more

than \$200,000.00 but less than \$1,000,000.00. *Plaintiff's Original Petition*, at ¶ 7.3, *Ex. I*. As such, the amount in controversy requirement for removal is apparent on the face of Plaintiff's pleading.

**VI.
Jury Demand**

6.1 Jon Edward Behle asserts his rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

**VII.
Prayer**

WHEREFORE, PREMISES CONSIDERED, Defendant Jon Edward Behle prays that this Notice of Removal be deemed sufficient and that the proceedings attached hereto be removed from the 341st Judicial District Court of Webb County, Texas to the docket of this Honorable Court.

Respectfully submitted,

By: /s/ Robert A. Valadez
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**ATTORNEY FOR DEFENDANT,
JON EDWARD BEHLE**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was forwarded in accordance with the Federal Rules of Civil Procedure on the 25th day of November 2020 to:

VIA E-MAIL AND E-SERVICE

Ryan King
Hagwood Ormand & King, LLC
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Alvin, Texas 77511
firm@hokfirm.com

/s/ Robert A. Valadez
ROBERT A. VALADEZ